REMARKS

OVERVIEW

Claims 1-7, 10-17, and 32-35 are pending in this applications. Claims 1, 10, 15, and 32 have been amended. The present response is an earnest effort to place all claims in proper form for immediate allowance.

ISSUES UNDER 35 U.S.C. § 103(a)

The Applicant understands that the Wilk reference was discovered in the updated search. The Applicant thanks the Examiner for his diligence and for finding the Wilk reference. The Applicant has amended the claims and submits that the claims in their present form are patentably distinguishable from the cited art.

Claims 1-3, 5-7, 10-14, 16, 17, 32, 33, and 35 have been rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,360,005 to Wilk in view of Callahan et al.

Wilk is directed towards a medical diagnosis device that is best shown in Figures 8 and 9. The device 202 includes an acusto-electric transducer 206 which is used for sensing acoustic information associated with a patient (column 10, lines 6-35). It is however, important to understand that the device of Figures 8 and 9 includes an ultrasonic wave generator 236 mounted to casing 202 for generating an ultrasonic pressure wave (column 10, lines 36-39). In this type of active sensing system, there is also an electronic sensor 238 within casing 202 for monitoring reflected ultrasonic pressure waves (column 10, lines 39-42).

The casing 202 has apertures 208 in the surface 204 for sensing acoustic vibrations. The transducer 206 is disposed in substantially semispherical portion 210 of casing 202 and is adapted for fitting within a physician's palm. A neck portion 212 of casing 202 connects

semispherical portion 210 to a rounded prismatic body portion 214. The prismatic body portion 214 is small enough to be grasped by a human hand (column 9, lines 39-58).

This structure of Wilk makes clear that the device of Wilk is intended to be held in the hand of a physician or other user to sense information. Wilk does not disclose that its device is freestanding on a patient. In fact, the structure of the Wilks device as shown in Figure 8 is used with the apertures 208 of the surface 204 engaging the skin of the patient (column 9, lines 41-50).

This strictly handheld use of Wilk is consistent with the inclusion of the ultrasonic wave generator and sensor, as well as the structure of Wilk's housing. Wilk is not intended to be placed freestanding on a patient to continuously provide ultra sounding sensing.

Claim 1 has been amended to require "said housing adapted for resting free standing on the patient, said housing without a protuberance." The device of Wilk includes the protuberance of the prismatic body 214 that houses the electronics. Therefore, Wilk does not disclose this negative limitation, in addition to having a different intended purpose.

Claim 10 has been amended to require "the housing without a protuberance for hand held use." Wilk does not disclose this negative limitation, Wilk is a handheld device. Further, claim 10 has been amended to include the limitation that "such that the device freestandingly rests on the patient." Wilk does not disclose this limitation either as Wilk discloses a structure that is intended to be hand held and not left resting on a patient.

Claim 15 has been amended to include the limitation "such that the housing rests freestanding on the patient, the housing not having a protuberance for hand held use." For reasons previously expressed, Wilk does not disclose these limitations.

Claim 32 has been amended to include the limitation of "the housing adapted for resting freestanding on the patient, the housing not having a protuberance for hand held use." Wilk does not disclose these limitations.

It is further noted, that as the Examiner has already observed, Wilk does not have a memory for storing original acoustic signals within the housing (Office Action, page 2).

Callahan et al. discloses a module auscultation sensor and telemetry system (Abstract). The device of Callahan is used in combination with a waist-pack or similar device and therefore is a tethered system. Therefore, Wilk does not disclose a "housing adapted for freestanding on the patient, said housing without a protuberance." The device of Callahan is not adapted for resting freestanding on the patient because the device is tethered. Moreover, the requirement of the connections between the waist-pack results in a protuberance. Similarly, with respect to claim 10, Callahan does not disclose the negative limitation of "the housing without a protuberance for hand held use." Also, Callahan does not disclose that "the device freestandingly rests on the patient" because Callahan's device, in order to be operative, is connected to the waist-pack.

With respect to claim 15, Callahan does not disclose that "the housing rests free standing on the patient." With respect to claim 32, Callahan does not disclose "the housing adapted for resting freestanding on the patient."

Therefore, it is respectfully submitted that all rejections based on the combination of Wilk in view of Callahan should be withdrawn.

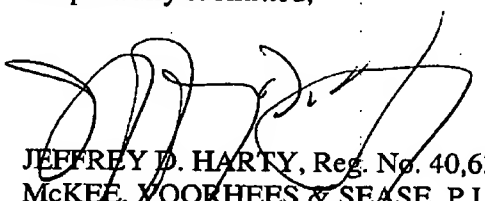
It is further noted that Fruscello also does not disclose these limitations. The precordial monitor of Fruscello has a cord 60, therefore it does not rest freestanding. Similarly, the missing

limitations are not disclosed in Eisenberg which is unconcerned with the housing structure of an electronic stethoscope.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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